

IC 3-10-8

Chapter 8. Special Elections

IC 3-10-8-1

Holding special elections

Sec. 1. A special election shall be held in the following cases:

- (1) Whenever two (2) or more candidates for a federal, state, legislative, circuit, or school board office receive the highest and an equal number of votes for the office, except as provided in Article 5, Section 5 of the Constitution of the State of Indiana or in IC 20.
- (2) Whenever a vacancy occurs in the office of United States Senator, as provided in IC 3-13-3-1.
- (3) Whenever a vacancy occurs in the office of United States Representative unless the vacancy occurs less than thirty (30) days before a general election.
- (4) Whenever a vacancy occurs in any local office the filling of which is not otherwise provided by law.
- (5) Whenever required by law for a public question.
- (6) Whenever ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18.

As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.190; P.L.10-1989, SEC.1.

IC 3-10-8-2

Filling vacancies

Sec. 2. A vacancy in a local office to be filled under this chapter shall be filled for the unexpired term unless prohibited by the Constitution of the State of Indiana. However, if it will not be necessary to exercise the functions of the office before the expiration of the term in which the vacancy exists or will occur, it is not necessary to fill the vacancy.

As added by P.L.5-1986, SEC.6.

IC 3-10-8-3

Writs of election

Sec. 3. (a) The governor, court, or state recount commission shall order a special election under this chapter by issuing a writ of election directed to the circuit court clerk of each county located wholly or partially within the election district.

(b) The writ must specify:

- (1) the election district in which the election is to be held;
- (2) the cause and object of the election;
- (3) the name of the person whose office is vacant; and
- (4) the day on which the election will be held.

(c) A special election to be held in an election district situated in two (2) or more counties shall be held on the same day in each county.

As added by P.L.5-1986, SEC.6. Amended by P.L.10-1989, SEC.2.

IC 3-10-8-4

Notice of special election; publication; filing

Sec. 4. (a) Each circuit court clerk or town clerk-treasurer who receives a writ ordering a special election shall publish in accordance with IC 5-3-1:

(1) under the proper political party or independent candidate designation:

(A) the title of office; and

(B) the names and addresses of all persons for whom nomination papers have been filed;

if an elected office will be on the ballot at the special election;

(2) the text of any public question to be submitted to the voters;

(3) the date of the election; and

(4) the hours during which the polls will be open.

(b) The county election board or town election board shall file a notice of a special election conducted under this chapter with the election division not later than noon thirty (30) days before the election is conducted.

As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.95; P.L.3-1993, SEC.107; P.L.12-1995, SEC.65; P.L.2-1996, SEC.122; P.L.3-1997, SEC.236.

IC 3-10-8-4.5

Offices and agencies to be notified of special election

Sec. 4.5. Whenever the election division receives a notice under section 4 of this chapter, the election division shall notify the following offices and agencies that a special election will be conducted within all or part of Indiana:

(1) Each agency serving persons with disabilities and designated as a voter registration site under IC 3-7-16.

(2) Armed forces recruitment offices in accordance with procedures established under IC 3-7-17.

(3) Each agency designated as a voter registration site and subject to IC 3-7-18.

(4) The alcohol and tobacco commission for purposes of enforcing IC 7.1-5-10-1.

(5) The bureau of motor vehicles for voter registration purposes under IC 9-24-2.5.

(6) The adjutant general for purposes of enforcing IC 10-16-7-17.

(7) The division of family and children for voter registration purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.

(8) The state department of health for voter registration purposes under IC 16-35-1.6.

(9) The Federal Voting Assistance Program of the United States Department of Defense, for notification of absent uniformed services voters and overseas voters.

As added by P.L.12-1995, SEC.66. Amended by P.L.2-1996, SEC.123; P.L.2-1997, SEC.8; P.L.3-1997, SEC.237; P.L.204-2001, SEC.2; P.L.2-2003, SEC.10.

IC 3-10-8-5

Law governing nomination of candidates

Sec. 5. (a) Special elections are governed by other provisions of this title as far as applicable.

(b) Except as provided in section 7 of this chapter, IC 3-12-8-17, or IC 3-12-11-18, candidates in special elections shall be nominated in the same manner as candidates are nominated:

(1) to fill vacancies on the ballot under IC 3-13-1 or IC 3-13-2;
or

(2) under IC 3-8-6, if a candidate does not intend to affiliate with a regular political party or represents a political party not qualified to nominate candidates at a primary election or by convention.

As added by P.L.5-1986, SEC.6. Amended by P.L.10-1989, SEC.3; P.L.3-1997, SEC.238.

IC 3-10-8-6

Holding of elections at time other than that of general election

Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

- (1) under a court order under IC 3-12-8; or
- (2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

- (1) under a court order under IC 3-12-8 for a school board office; or
- (2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board. A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

- (1) The inspector shall be nominated by the county chairman

entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

As added by P.L.5-1986, SEC.6. Amended by P.L.3-1989, SEC.7; P.L.3-1993, SEC.108; P.L.3-1997, SEC.239; P.L.14-2004, SEC.89.

IC 3-10-8-7

Vacancy in United States Senate; nominating candidates

Sec. 7. A candidate for the office of United States Senator in a special election held to fill a vacancy in accordance with IC 3-13-3-1 shall be nominated:

(1) at a primary election held under IC 3-10-1, if the vacancy occurs no later than noon seventy (70) days before the primary election;

(2) as provided in IC 3-13-1-3, if the vacancy occurs after noon on the seventieth day before a primary election held under IC 3-10-1; or

(3) under IC 3-8-6, if a candidate is an independent candidate or represents a political party not qualified to nominate candidates at a primary election.

As added by P.L.10-1989, SEC.4. Amended by P.L.3-1993, SEC.109.

IC 3-10-8-8

Special elections ordered by court or recount commission

Sec. 8. (a) A special election ordered by:

(1) a court under IC 3-12-8-17; or

(2) the state recount commission under IC 3-12-11-18;

shall be held on the ninth Tuesday after the court or commission enters an order requiring an election.

(b) The names of all candidates for a contested office must appear on the ballot in the special election held under this section unless a candidate vacancy has occurred.

(c) A special election held under this section may be held in all or part of an election district, as specified in an order by:

(1) a court under IC 3-12-8-17; or

(2) the state recount commission under IC 3-12-11-18.

As added by P.L.10-1989, SEC.5.

IC 3-10-8-9

Registration period; poll lists; candidate limitations; alcoholic beverage sales

Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the date specified by IC 3-7-13-10(d).

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

As added by P.L.3-1993, SEC.110. Amended by P.L.12-1995, SEC.67; P.L.3-1995, SEC.90; P.L.14-2004, SEC.90.